

ATTACHMENT A

LOCAL COMPETITION AND BROADBAND DEPLOYMENT REPORTING

FCC Form 477 -- Local Competition and Broadband Reporting

Page 1

Please complete separate surveys for the following types of operations and check the appropriate box to indicate which type you are reporting on this form.

 ILEC ☐ Mobile Wireless / Satellite Service Provider ☐ CLEC ☐ Cable TV ☐ Other ☐

 Company

 State

 Qtr Year
Voice Grade and Equivalent Lines 2/

 Residential
Switched
(a)

 Non-Residential
Switched 5/
(b)

 Special Access and
UNE Loops 5/
(c)

 Total Voice Grade
Lines
[(a) + (b) + (c)]

I. Voice grade lines 1/ 2/ in service at end of quarter.
A. Lines you used to provide service to end users, 3/ categorized by:

1. Lines you owned. 4/

<input type="text"/>	<input type="text"/>	(must be special access) <input type="text"/>	<input type="text"/>
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2. Lines you leased. 4/

<input type="text"/>	<input type="text"/>	(must be special access) <input type="text"/>	<input type="text"/>
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 3. Total lines you provided to end users.
[Line 1 + Line 2]

<input type="text"/>	<input type="text"/>	(must be special access) <input type="text"/>	<input type="text"/>
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B. Lines you provided to other communications carriers, 3/ categorized by:

4. Lines you owned 4/ that you provided under a UNE loop arrangement, defined in 47 U.S.C. §251. 5/

<input type="text"/>	<input type="text"/>	(must be UNE loop) <input type="text"/>	<input type="text"/>
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5. Lines you owned 4/ that you provided under a wholesale (Total Service Resale) arrangement, defined in 47 U.S.C. §251. 5/

<input type="text"/>	<input type="text"/>	(must be special access) <input type="text"/>	<input type="text"/>
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6. Lines you owned 4/ that you provided under other resale arrangements, such as centrex provided at retail rates for resale. 5/

<input type="text"/>	<input type="text"/>	(must be special access) <input type="text"/>	<input type="text"/>
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7. Lines that you leased 4/ that you in turn provided under UNE, wholesale, or other resale arrangements.

<input type="text"/>	<input type="text"/>	(special access + UNE loop) <input type="text"/>	<input type="text"/>
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8. Total lines that you provided to other communications carriers. [Line 4 + Line 5 + Line 6 + Line 7]

<input type="text"/>	<input type="text"/>	(special access + UNE loop) <input type="text"/>	<input type="text"/>
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C. 9. Total voice grade lines. [Line 3 + Line 8]

<input type="text"/>	<input type="text"/>	(special access + UNE loop) <input type="text"/>	<input type="text"/>
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10. Contact Person:

11. Contact Telephone #:

 OMB NO: 3060-xxxx
EXPIRATION DATE:

Company

State

- II. Total voice grade lines 1/ 2/ that you owned 4/ that were in service at end of quarter, categorized by status of your switching center.

Switching Center Information			
Residential Switched (a)	Non-Residential Switched 5/ (b)	Special Access and UNE Loops 5/ (c)	Total Voice Grade Lines [(a) + (b) + (c)]

12. Lines in your switching centers where at least one competing communications carrier had an operational collocation arrangement for switched local exchange services.

13. Lines in your switching centers where no competing communications carrier had an operational collocation arrangement for switched local exchange services.

14. Total. [Line 12 + Line 13]
[also equals Line 1 + Line 4 + Line 5 + Line 6]

- III. High capacity lines 1/ 2/ in service at end of quarter.

High Capacity Lines 2/			
Number of Physical Lines/Channels in Service		Capacity of Lines/Channels in Service	
(a) T1/T3	(b) Other	(c) T1/T3 (1.544 mbps equivalents)	(d) Other (1.544 mbps equivalents)

- A. Lines you used to provide service to end users, 3/
categorized by:

15. Lines you owned. 4/

16. Lines you leased. 4/

17. Total lines you provided to end users. [Line 15 + Line 16]

- B. 18. Total lines that you provided to other communications carriers.

- C. 19. Total high capacity lines you provide.
[Line 17 + Line 18]

Company

State

IV. Lines and channels 1/ that you used to provide service to your end users at end of quarter, categorized by technology:

20. T1.

21. T3.

22. Up to T1 equiv. xDSL. 8/

23. Greater than T1 equiv. xDSL. 8/

24. Up to T1 equiv. coaxial (including fiber-fed). 8/

25. Greater than T1 equiv. coaxial (including fiber-fed). 8/

26. Optical carrier.

27. Up to T1 equiv. electrical power line. 8/

28. Greater than T1 equiv. electrical power line. 8/

29. Up to T1 equiv. satellite fixed. 8/

30. Greater than T1 satellite fixed. 8/

31. Satellite mobile.

32. Up to T1 equiv. terrestrial wireless fixed. 8/

33. Greater than T1 terrestrial wireless fixed. 8/

34. Terrestrial wireless mobile.

35. Other -- up to T1 equiv. 8/

36. Other -- greater than T1 equiv. 8/

Number of One-Way and Full Broadband 7/
Lines/Channels connected to All End User 3/ 5/ Customers

(a)
One-Way
Broadband Provided
Over Own Facilities

(b)
One-Way
Broadband Provided
Over Resold Facilities

(c)
Full Broadband
Provided Over
Own Facilities

(d)
Full Broadband
Provided Over
Resold Facilities

Company

State

V. Lines and channels 1/ that you used to provide service to your end users at end of quarter, categorized by technology:

37. T1.

38. T3.

39. Up to T1 equiv. xDSL. 8/

40. Greater than T1 equiv. xDSL. 8/

41. Up to T1 equiv. coaxial (including fiber-fed). 8/

42. Greater than T1 equiv. coaxial (including fiber-fed). 8/

43. Optical carrier.

44. Up to T1 equiv. electrical power line. 8/

45. Greater than T1 equiv. electrical power line. 8/

46. Up to T1 equiv. satellite fixed. 8/

47. Greater than T1 satellite fixed. 8/

48. Satellite mobile.

49. Up to T1 equiv. terrestrial wireless fixed. 8/

50. Greater than T1 terrestrial wireless fixed. 8/

51. Terrestrial wireless mobile.

52. Other -- up to T1 equiv. 8/

53. Other -- greater than T1 equiv. 8/

Number of One-Way and Full Broadband 7/
Lines/Channels connected to Residential 3/ 5/ Customers

(a)
One-Way
Broadband Provided
Over Own Facilities

(b)
One-Way
Broadband Provided
Over Resold Facilities

(c)
Full Broadband
Provided Over
Own Facilities

(d)
Full Broadband
Provided Over
Resold Facilities

Company

State

VI. Voice grade mobile telephony service subscribers 1/ 9/
served at end of quarter:

Mobile Service

Total
Subscribers

54. Cellular.

55. PCS & other mobile telephony.

56. Total. [Line 54 + Line 55]

Purpose: Data from this survey will be used to describe competition in the local exchange market and to gather information about the deployment of broadband services. In addition, the data will be used to identify how much of the competition is provided on a facilities vs. a resale basis. Carriers should file separate data for voice grade and for higher capacity lines. For the voice grade part of the market, carriers should file separate data for residential, non-residential, and special access and UNE loop service.

Use of the term "lines": Interpret "lines" to mean either physical lines or wireless channels whose function is similar to lines. In categorizing lines as voice grade vs. high capacity (Sections I and III) and by type of broadband technology deployment (Section IV and V), base your response on the portion of the line or channel that connects to the customer's premise. Count only lines that are in service, including lines that you provide to end users (all Sections) and lines that you provide to another carrier (Sections I, II, III and VI).

1/ Include vs. exclude: Report in Section I, Section II and Section III all lines and channels that connect directly to an end-user premises at one end and, at the other end (directly or indirectly), to a carrier switch or to a network that carries traffic to the public switched telephone network. For example:

- Include:
- UNE loops provided to other communications carriers even if those carriers were not using those lines to provide service to end users.
 - fixed wireless channels.
 - symmetric and asymmetric xDSL lines that carried customer voice and data to internet protocol, ATM based, or circuit switched networks whence traffic reached the public switched telephone network.
 - dedicated lines that connected to an end user at one end, passed through your switch or switching center, and thence connected to another communication carrier's switch or network that carries traffic to the public switched telephone network.
- Exclude:
- lines provided to carriers that were used for interoffice trunking.
 - private lines that connected one customer location directly to another.
 - lines not in service even if the lines were on order.
 - company official lines.
 - mobile satellite, cellular & PCS telephone service. [Report mobile telephony service subscribers in Section VI.]
 - transport lines between your switching center and internet protocol, ATM or circuit switched networks, where you already are reporting the portion of the line between the end user and your switching center, even if you multiplexed those lines and provided higher capacity lines between your switching center and those networks.
 - lines that customers cannot use to place calls to subscribers of ordinary telephone service. For example, exclude dedicated lines that customers use for internet access unless the lines are also used for exchange telephone service.

Report in Section IV (all customers) and V (residential) all lines and channels used to provide broadband service to end-user customers. For example:

- Include:
- all end-user lines reported as high capacity lines in Section III.
 - lines that you use to provide internet access or internet services to end-user customers, including internet access provided via cable modem service over cable systems.
- Exclude:
- broadcast cable television service and other multi-channel video programming.
 - video-on-demand type service unless it is bundled with internet-type access.

Report in Section VI voice grade mobile telephone services. For example:

- Include:
- mobile satellite, cellular, and PCS telephone service & other terrestrial mobile services.
- Exclude:
- fixed wireless services provided using PCS or satellite facilities.
 - paging and other one-way services.
 - all services with data rates of 200 kbps or greater in one direction.
 - all dedicated internet services.

- 2/ Voice grade vs. high capacity: Count as one voice grade equivalent line: traditional analog POTS lines, Centrex-CO extensions, and Centrex-CU trunks. Count a UNE loop as a single voice grade equivalent line unless it is specifically provided and equipped as a high capacity line. Classify high capacity lines/channels as T1/T3 vs. all other. Include DS1 and DS3 lines as T1/T3 lines/channels. Include xDSL, coaxial, optical carrier, electrical power, terrestrial fixed wireless and satellite fixed lines/channels as other lines/channels. In completing Section III, report actual line counts and capacity. For example, count eight 1/4 T1 circuits as eight physical lines and as two 1.544 mbps equivalents of capacity. Similarly, count one optical carrier (SONET) OC-1 line as one physical line and as twenty eight 1.544 mbps equivalents. Count a T3/DS3 line as one physical line and as twenty eight 1.544 mbps equivalent lines. Count a PRI ISDN line as one 1.544 mbps equivalent line. Classify other digital lines as follows:

Reporting of Digital Lines/Channels				
Downstream Data Rate	Upstream Data Rate			
	Less than 48 kbps	48 kbps or more but less than 96 kbps	96 kbps up to 200 kbps	More than 200 kbps
Less than 48 kbps	do not report	do not report	do not report	one-way broadband
48 kbps or more but less than 96 kbps	do not report	one voice grade *	one voice grade *	high capacity and one-way broadband
96 kbps up to 200 kbps	do not report	one voice grade *	two voice grade *	high capacity and one-way broadband
More than 200 kbps	one-way broadband	high capacity and one-way broadband	high capacity and one-way broadband	high capacity and full broadband
* As noted above, digital lines are reported as voice grade lines only if they connect directly to an end-user premises at one end and, at the other end, to a carrier switch or to a network that carries traffic to the public switched telephone network. For example, Basic Rate ISDN lines are reported as two voice grade lines.				

- 3/ End-user vs. carrier: In Section I, separate lines provided to end users from lines provided to other communications carriers under resale or UNE arrangements. In Section III, separate high capacity lines that are connected to end users into two categories: lines that you provided to end users; and lines that you provided to other communications carriers. Do not include the same high capacity line more than once in lines 15, 16 and 18. Include as end-user lines in Section I-A and Section III-A lines billed or marketed by your agents. For example, include as end-user lines all lines provided through traditional marketing agency arrangements, as well as lines furnished to shared tenant service providers. In Sections IV and V, only report broadband services provided to end users. Broadband lines provided to internet service providers for resale to end users should be classified as resale, not as end-user.
- 4/ Own vs. lease: Only one filer should report that they own any specific line. Count as lines you own all lines that you actually owned as well as lines obtained from entities that are not communications carriers and that you used as part of your own system. Count as lines you lease all lines that you obtained from another reporting communications carrier including lines obtained under UNE loop, wholesale (Total Service Resale), or other resale or lease arrangements. For example, if you take a voice grade UNE loop and use it to provide switched access service to a residential customer, report that line in Line 2, column (a).

- 5/ Residential vs. non-residential vs. special access and UNE loop: Classify lines as residential only if the line terminates with a residential end user. Exclude lines that terminate with business, government, education, shared tenant system, institutional and pay telephone customers. In Section I, classify all lines provided under UNE loop arrangements in column (c). Count a UNE loop as in service if it has been provided to and is being billed to the competing carrier regardless of whether that carrier has the line in service. Classify lines provided for resale as residential vs. non-residential according to the tariff/price list under which the service is provided. If the tariff/price list does not distinguish residential vs. non-residential service, estimate a split based on the demographics of the area in which the lines are provided. Include local private lines connecting an end user with a carrier in column (c). For reporting voice grade lines, classify as special access all dedicated lines connected to an end user at one end, passed through your switch or switching center, and thence connected to another communication carrier's switch or network, even if these were provided under private line rather than special access tariffs. Report high capacity lines in Section III without any separate breakout for switched vs. special access vs. private line. In Section V, include lines that connect to residential end users including lines billed to residential end users that connect the customer to an internet service provider, but not lines billed to the internet service provider.
- 6/ A switching center is a location containing one or more switches. Do not consider separate three-digit telephone prefixes as separate switching centers. Consider a remote as a separate switching center if a competing carrier could obtain a UNE loop **only** at the remote switch rather than at the host switch. Note: this definition of a switching center is different from wire center based definitions of switching centers which include all remote switch locations as switching centers. If collocation occurs only at a remote switch, report lines served from that switch on Line 12 and report other lines served by the host or other remote switches on Line 13.
- 7/ One-way vs. full broadband: Classify a line/channel as full broadband if it provides the customer the capability of simultaneously sending and receiving information at a rate greater than 200 kbps. Classify an asymmetric line/channel as one-way broadband if it provides the customer the capability of sending or receiving information at a rate greater than 200 kbps in one direction but 200 kbps or less in the other direction. For packet switched-based services, use the customer's authorized maximum usage to classify the line/channel as full broadband or one-way broadband. As noted in footnote 1, broadband does not include broadcast cable TV service or other exclusively one-way services, but does include internet access using cable modem service over cable systems.
- 8/ Up to vs. greater than T1 equiv. broadband: In Sections IV and V, classify xDSL, coaxial, electrical power, satellite fixed, wireless fixed and other lines/channels as greater than T1 equivalent if they provide the end user with the capability of transmitting or receiving greater than 1.544 mbps in one direction. Classify other broadband lines/channels as up to T1 equivalent.
- 9/ Mobile wireless telephony subscriber counts by state should be based on billing addresses.

Company

State

Space for comments or explanatory notes.

Line Comment

Instructions for electronic filing

- 1) Enter the data for one state, save the spreadsheet, and then reload FORM5XX.XLS to create a file for the next state.
- 2) If you meet the filing threshold for more than one type of operation (CLEC, ILEC, Mobile Wireless / Satellite Service Provider, Cable TV, or Other) then you will file separate data in separate worksheets for each type of operation in each state.
- 3) Use the following naming convention for file names:

First letter = "C" for CLEC operations in state; "I" for ILEC operations;
"M" for Mobile Wireless / Satellite operations; "V" for cable TV operations; or
"O" for other operations in the state.

Next character is the last digit of the year. For example:

1999	9
2000	0

Next three letters = entity name (company) abbr. For example:

Allegiance Telecom	ALG
ALLTEL	ALL
Ameritech	AMR
e.spire Communications	ESP

Next character is the numeric value of the quarter of the filing. Specifically:

first quarter	1
second quarter	2
third quarter	3
fourth quarter	4

Next two characters = state abbr.

Alabama	AL
Alaska	AK
Arizona	AZ
Arkansas	AR
California	CA
Colorado	CO
Connecticut	CT
Delaware	DE
District of Columbia	DC
Florida	FL
Georgia	GA
Hawaii	HI
Idaho	ID

Illinois	IL
Indiana	IN
Iowa	IA
Kansas	KS
Kentucky	KY
Louisiana	LA
Maine	ME
Maryland	MD
Massachusetts	MA
Michigan	MI
Minnesota	MN
Mississippi	MS
Missouri	MO
Montana	MT
Nebraska	NE
Nevada	NV
New Hampshire	NH
New Jersey	NJ
New Mexico	NM
New York	NY
North Carolina	NC
North Dakota	ND
Ohio	OH
Oklahoma	OK
Oregon	OR
Pennsylvania	PA
Puerto Rico	PR
Rhode Island	RI
South Carolina	SC
South Dakota	SD
Tennessee	TN
Texas	TX
Utah	UT
Vermont	VT
Virginia	VA
Washington	WA
West Virginia	WV
Wisconsin	WI
Wyoming	WY

Examples:

Ameritech ILEC operations in Michigan (fourth quarter, 1999) I9AMR4MI

GTE CLEC operations in Florida (second quarter, 2000) C0GTE2FL

OMB NO: 3060-xxxx

EXPIRATION DATE:

- 4) Do not insert or delete rows or columns or move cells in the worksheet.
- 5) Enter data into the cells indicated.
- 6) Enter numeric data as numbers, not as labels. Enter all digits, even if a number has been estimated or rounded.
Thus, enter 21.7 million as 21,700,000.

Enter quarter as a numeric value

- 1 = first quarter (i.e., data as of March 31)
- 2 = second quarter (i.e., data as of June 30)
- 3 = third quarter (i.e., data as of September 30)
- 4 = fourth quarter (i.e., data as of December 31)

Enter the year as a numeric, 4-digit value. For example:

2001

- 7) Enter any comments or explanatory notes in the space provided at the bottom of the worksheet, below the footnotes. Enter the section and/or question number in column F and your comment in column I.
- 8) Enter the identical company name in the space provided at the top of FCC Form 5xx for each state for which the entity files data for a particular type of operation (e.g., CLEC). Use the name under which the company does business, not the abbreviation used for naming the data files.

Enter the state abbreviations shown above in the indicated cell under the company name.

- 9) Enter an "x" or an "X" in the appropriate check box to indicate CLEC; ILEC; Mobile Wireless / Satellite Service Provider; Cable TV; or Other.
- 10) Entering responses: Do not leave entries blank.
Use the number "0" (zero) for items that are not applicable or for those values which are known to be zero.
- 11) Contact Ellen Burton or Jim Zolniersek for clarifications at (202) 418-0940.

12) To submit the individual data files, either:

- a) Attach files to an e-mail directed to:
localcomp@fcc.gov

Include in the message part of the e-mail

- The name of the company providing the data
- The number of files attached to the message
- The 3-character company abbreviation used as part of the file names.

- or b) Mail diskettes to:

Local Competition Survey
Mail Stop 1600F
Federal Communications Commission
445 12 th Street, S.W.
Washington, D.C. 20554

Include in the cover letter transmitting the diskettes:

- The name of the company providing the data
- The number of diskettes and data files transmitted in the package
- The 3-character company abbreviation used as part of the file names.

Note: more than one file can be included on a diskette.

ATTACHMENT B - Proposed Rules**AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS****PART 1 -- PRACTICE AND PROCEDURE**

1. The authority citation for Part 1 continues to read as follows:

AUTHORITY: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r).

2. Subpart U of the Part 1 is created to read as follows:

**Subpart U -- Implementation of Section 706 of the Telecommunications
Act of 1996; Commission Collection of Advanced Telecommunications
Capability Deployment Data**

§ 1.6000 Purpose

The purpose of this Part is to set out the terms by which certain commercial and government-controlled entities report data to the Commission concerning the deployment of advanced telecommunications capability, defined pursuant to 47 U.S.C. § 157nt as "high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology," and the deployment of services that are competitive with advanced telecommunications capability.

§ 1.6001 Scope and Content of Filed Reports

(a) *All commercial and government-controlled entities, including but not limited to communications common carriers and their affiliates, cable television companies, Multichannel Multipoint Distribution Service (MMDS/MDS) "wireless cable" carriers, public utilities and others, which have full broadband lines or wireless channels in service to 1,000 or more customers nationwide, shall file reports with the Commission containing information about the provision of such capability. For purposes of this Subpart, "full broadband lines or wireless channels" are defined as lines or wireless channels with information carrying capability in excess of 200 Kbps in both directions simultaneously.*

(b) *Each report shall contain, in a format determined by the Commission, broadband deployment information, including lines or wireless channels with information carrying capability in excess of 200 Kbps in both directions simultaneously and in one direction only;*

and lines or wireless channels with information carrying capability in excess of 1.544 Mbps in both directions simultaneously and in one direction only.

(c) *Each report pursuant to this section shall be filed in duplicate, and the original shall be signed by the responsible official to whom correspondence related thereto should be addressed.*

§ 1.6002 Frequency of Reports

Commercial and government-controlled entities subject to the provisions of § 1.6001 shall file reports [quarterly, on a calendar year basis. Commercial and government-controlled entities becoming subject to the provisions of § 1.6001 for the first time within a calendar year shall file data for the next quarter following eligibility and quarterly thereafter.]

* * * * *

PART 20 -- COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for Part 20 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 160, 251-254, 303, and 332 unless otherwise noted.

2. Subsection 20.15(b) of the Commission's rules is amended to read as follows:

§ 20.15 Requirements under Title II of the Communications Act

(b) Commercial mobile radio service providers are not required to:

(1) File with the Commission copies of contracts entered into with other carriers or comply with other reporting requirements, or with §§ 1.781 - 1.814 and 43.21 of this chapter; *except that commercial radio service providers that offer mobile telephony (for purposes of this subpart, "mobile telephony" is defined as real-time, two-way switched voice service that is interconnected with the public switched network utilizing an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoff of subscriber calls) shall file reports pursuant to § 43.11 of this chapter.*

* * * * *

**PART 43 - REPORTS OF COMMUNICATION COMMON
CARRIERS AND CERTAIN AFFILIATES**

Part 43 of Title 47 of the Code of Federal Regulations (C.F.R.) is amended as follows:

1. The authority citation for Part 43 continues to read as follows:

AUTHORITY: 47 U.S.C. § 154; Telecommunications Act of 1996, Pub. L. 104-104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

2. Section 43.01 of the Commission's rules is amended to read as follows:

§ 43.01 Applicability

(a) * * *

(b) Except as provided in paragraphs (c) *and* (d) of this section, carriers becoming subject to the provisions of the several sections of this part for the first time, shall, within thirty (30) days of becoming subject, file the required data as set forth in the various sections of this part.

(c) * * *

(d) *Communication common carriers subject to the provisions of § 43.11 shall file data [quarterly, on a calendar year basis. Communication common carriers becoming subject to the provisions of § 43.11 for the first time within a calendar year shall file data for the next quarter following eligibility and quarterly thereafter.]*

3. Section 43.11 of the Commission's rules is added to read as follows:

§ 43.11 Reports of Local Exchange Competition Data

(a) *All communication common carriers and their affiliates providing local exchange service, or commercial mobile radio service (CMRS) providers offering mobile telephony (as defined in section 20.15(b)(1) of this chapter), shall file [quarterly] reports with the Commission containing information about the provision of such services. Carriers with fewer than 50,000 local access lines nationwide and CMRS providers with fewer than 50,000 subscribers nationwide are exempt from the requirements of this section, unless the carrier provides full broadband lines (as defined in section 1.6001(a) of this chapter) to 1,000 or more customers.*

(b) Each such report shall contain, in a format determined by the Commission, the following:

(1) For communication common carriers and their affiliates providing telephone exchange service or exchange access defined pursuant to 47 U.S.C. § 153(26), information concerning voice grade lines in service to end users and other communication common carriers, high capacity lines in service to end users and other communication common carriers, and collocation arrangements.

(2) For commercial mobile radio service providers of mobile telephony services, defined pursuant to 47 C.F.R. § 20.15(b)(1), information concerning voice grade mobile telephony service subscribers.

(c) Each report pursuant to this section shall be filed in duplicate, and the original shall be signed by the responsible official to whom correspondence related thereto should be addressed.

ATTACHMENT C**INITIAL REGULATORY FLEXIBILITY ACT ANALYSIS**

1. As required by the Regulatory Flexibility Act (RFA),¹ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of any possible significant economic impact on small entities by the policies and rules proposed in this Notice. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this Notice, which are set out in ¶ 91 of the Notice. The Commission will send a copy of this Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.² In addition, this Notice and IRFA (or summaries thereof) will be published in the Federal Register.³

I. Need for, and Objectives of, the Proposed Action:

2. The Commission has initiated this proceeding to determine whether it should require certain providers of communications services to report a limited amount of information about the development of local telephone competition and the deployment of broadband services as mandated by the Telecommunications Act of 1996. The 1996 Act -- in particular, sections 251 and 271 -- tasked this Commission and the states with important roles in opening up local telephone markets to competition. The Commission needs timely and reliable information about the pace and extent of developing competition in different geographic markets in order to evaluate the effectiveness of the actions this Commission and the states are taking to promote local telephone competition. Moreover, the Commission tentatively concluded that gathering broadband deployment information is critical given that section 706 of the 1996 Act requires the Commission to issue periodic reports on the state of broadband deployment.

II. Legal Basis:

3. The legal basis for the action as proposed for this rulemaking is contained in sections 1-5, 10, 11, 201-205, 215, 218-220, 251-271, 303(r), 332, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-155, 160, 161, 201-205, 215,

¹ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² See 5 U.S.C. § 603(a).

³ See *id.*

218-220, 251-271, 303(r), 332 and 403, and pursuant to section 706 of the Telecommunications Act of 1996, 47 U.S.C. § 157 nt.

III. Description and Estimate of the Number of Small Entities to Which the Proposed Action May Apply:

4. The Commission tentatively concludes that local exchange carriers and providers of mobile telephony services that serve 50,000 or more subscribers, and any entity that provides at least 1,000 full broadband lines, should comply with the proposed reporting requirement.⁴ Based on data available to it at present, the Commission estimates that fewer than 50 of the nation's largest local exchange carriers and between 40 and 70 mobile telephony providers would be required to comply with the proposed requirement. Nevertheless, and out of an abundance of caution, we set out below a detailed description of the types of entities that could possibly be required to comply with the proposed reporting requirement and we detail our understanding of the number of small entities within each of these categories.

5. To estimate the number of small entities that may be affected by the proposed rules, we first consider the statutory definition of "small entity" under the RFA. The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction."⁵ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities.⁶ Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).⁷ The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except

⁴ See Notice Section III.A., Types of Entities that Must Report.

⁵ 5 U.S.C. § 601(6).

⁶ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the Federal Register."

⁷ 15 U.S.C. § 632. See, e.g., *Brown Transport Truckload, Inc. v. Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).

Radiotelephone) to be small entities when they have no more than 1,500 employees.⁸ We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

6. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator* report, derived from filings made in connection with the Telecommunications Relay Service (TRS).⁹ According to data in the most recent report, there are 3,604 interstate carriers.¹⁰ These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

7. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."¹¹ The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.¹² We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

⁸ 13 C.F.R. § 121.201.

⁹ FCC, *Carrier Locator: Interstate Service Providers*, Figure 1 (Jan. 1999) (*Carrier Locator*). See also 47 C.F.R. § 64.601 *et seq.*

¹⁰ *Carrier Locator* at Fig. 1.

¹¹ 5 U.S.C. § 601(3).

¹² Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. See, *e.g.*, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket 96-98, First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996).

8. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.¹³ This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated."¹⁴ For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules proposed in the Notice.

9. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992.¹⁵ According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.¹⁶ All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules proposed in the Notice.

10. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, and Resellers.* Neither the Commission nor SBA has developed a definition of small local exchange carriers (LECs), interexchange carriers (IXCs),

¹³ United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) ("1992 Census").

¹⁴ 15 U.S.C. § 632(a)(1).

¹⁵ 1992 Census, *supra*, at Firm Size 1-123.

¹⁶ 13 C.F.R. § 121.201, SIC Code 4813.

competitive access providers (CAPs), operator service providers (OSPs), or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.¹⁷ The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS).¹⁸ According to our most recent data, there are 1,410 LECs, 151 IXC, 129 CAPs, 32 OSPs, and 351 resellers.¹⁹ Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,410 small entity LECs or small incumbent LECs, 151 IXC, 129 CAPs, 32 OSPs, and 351 resellers that may be affected by the decisions and rules proposed in the Notice.

11. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.²⁰ According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons.²¹ The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rules proposed in the Notice.

12. *Cellular, PCS, SMR and Other Mobile Service Providers.* In an effort to further refine our calculation of the number of radiotelephone companies that may be affected by the rules adopted herein, we consider the data that we collect annually in connection with

¹⁷ 13 C.F.R. § 121.210, SIC Code 4813.

¹⁸ See 47 C.F.R. § 64.601 *et seq.*; *Carrier Locator* at Fig. 1.

¹⁹ *Carrier Locator* at Fig. 1. The total for resellers includes both toll resellers and local resellers.

²⁰ United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) ("1992 Census").

²¹ 13 C.F.R. § 121.201, SIC Code 4812.

the TRS for the subcategories Wireless Telephony (which includes Cellular, PCS, and SMR) and Other Mobile Service Providers. We will utilize the closest applicable definition under SBA rules -- which, for both categories, is for telephone companies other than radiotelephone (wireless) companies,²² however, to the extent that the Commission has adopted definitions for small entities providing PCS and SMR services, we discuss those definitions below.

According to our most recent TRS data, 732 companies reported that they are engaged in the provision of Wireless Telephony services and 23 companies reported that they are engaged in the provision of Other Mobile Services.²³ Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of Wireless Telephony Providers and Other Mobile Service Providers, except as described below, that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 732 small entity Wireless Telephony Providers and fewer than 23 small entity Other Mobile Service Providers that might be affected by the decisions and rules proposed in the Notice.

13. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.²⁴ For Block F, an additional classification for "very small business" was added, and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.²⁵ These regulations defining "small entity" in the context of broadband PCS auctions have been approved by SBA.²⁶ No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on

²² *Id.*

²³ *Carrier Locator* at Fig. 1.

²⁴ *See Amendment of Parts 20 and 24 of the Commission's Rules -- Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap*, Report and Order, FCC 96-278, WT Docket No. 96-59, ¶¶ 57-60 (June 24, 1996), 61 FR 33859 (July 1, 1996); *see also* 47 C.F.R. § 24.720(b).

²⁵ *Id.*, at ¶ 60.

²⁶ *Implementation of Section 309(j) of the Communications Act -- Competitive Bidding*, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-84 (1994).

this information, we estimate that the number of small broadband PCS licenses will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by SBA and the Commissioner's auction rules.

14. *SMR Licensees.* Pursuant to 47 C.F.R. § 90.814(b)(1), the Commission has defined "small entity" in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than \$15 million in the three previous calendar years. The definition of a "small entity" in the context of 800 MHz SMR has been approved by the SBA,²⁷ and approval for the 900 MHz SMR definition has been sought. The proposed rules may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than \$15 million. Consequently, we estimate, for purposes of this IRFA, that all of the extended implementation authorizations may be held by small entities, some of which may be affected by the decisions and rules proposed in the Notice.

15. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we estimate that the number of geographic area SMR licensees that may be affected by the decisions and rules proposed in the Notice includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we estimate, for purposes of this IRFA, that all of the licenses may be awarded to small entities, some of which may be affected by the decisions and rules proposed in the Notice.

16. *220 MHz Radio Service -- Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. There are approximately 1,515 such non-nationwide licensees

²⁷ See *Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool*, PR Docket No. 89-583, Second Order on Reconsideration and Seventh Report and Order, 11 FCC Rcd 2639, 2693-702 (1995); *Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band*, PR Docket No. 93-144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995).

and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies.²⁸ According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.²⁹ Therefore, if this general ratio continues to 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition, some of which may be affected by the decisions and rules proposed in the Notice.

17. *220 MHz Radio Service -- Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz *Third Report and Order* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.³⁰ We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.³¹ An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.³² 908 licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. As of

²⁸ 13 C.F.R. § 121.201, SIC Code 4812. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.

²⁹ U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

³⁰ 220 MHz Third Report and Order, 12 FCC Rcd 10943, 11068-70, at paras. 291- 295 (1997). The SBA has approved these definitions. See Letter from A. Alvarez, Administrator, SBA, to D. Phythyon, Chief, Wireless Telecommunications Bureau, FCC (Jan. 6, 1998).

³¹ 220 MHz Third Report and Order, 12 FCC Rcd at 11068-69, para. 291.

³² See generally Public Notice, "220 MHz Service Auction Closes," Report No. WT 98-36 (Wireless Telecom. Bur. Oct. 23, 1998).

October 7, 1999, the Commission had granted 681 of the Phase II 220 MHz licenses won at a first auction and an additional 221 Phase II licenses won at a second auction.³³

18. *Paging.* The Commission has adopted a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services.³⁴ A small business is defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than \$3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than \$15 million. The SBA approved this definition for paging services on December 12, 1999.³⁵ At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Carrier Locator* data, 137 carriers reported that they were engaged in the provision of either paging or messaging services, which are placed together in the data.³⁶ We do not have data specifying the number of these carriers that meet this two-tiered definition, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 137 small paging carriers that may be affected by the decisions and rules proposed in the Notice.

19. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction.

³³ See *Wireless Telecommunications Bureau Grants 654 Phase II 220 MHz Licenses*, Public Notice, DA 99-583 (rel. Mar 24, 1999); *Wireless Telecommunications Bureau Conditionally Grants 23 Phase II 220 MHz Licenses and Announces It is Prepared to Grant Four Additional Phase II 220 MHz Licenses After Final Payment is Made*, Public Notice, DA 990746 (rel. April 16, 1999); *Wireless Telecommunications Bureau Grants One Phase II 220 MHz License and Conditionally Grants Three Phase II 220 MHz Licenses*, Public Notice, DA 99-1111 (rel. Jun 7, 1999); *Wireless Telecommunications Bureau Grants 221 Phase II 220 MHz Licenses*, Public Notice, DA 99-2104 (rel. Oct. 7, 1999).

³⁴ See 47 C.F.R. § 20.9(a)(1) (noting that private paging services may be treated as common carriage services).

³⁵ Letter from Aida Alvarez, Administrator, U.S. Small Business Administration, to Amy J. Zoslov, Chief of Auctions and Industry Analysis Division, Federal Communications Commission (Dec. 12, 1998).

³⁶ *Carrier Locator* at Fig. 1.

Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

20. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.³⁷ A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).³⁸ We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.³⁹ There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

21. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.⁴⁰ Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.⁴¹ There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

22. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities.⁴² These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of, if any, small businesses that could be impacted by the proposed rules. However, the Commission's

³⁷ The service is defined in section 22.99 of the Commission's rules, 47 C.F.R. § 22.99.

³⁸ BETRS is defined in sections 22.757 and 22.759 of the Commission's rules, 47 C.F.R. §§ 22.757, 22.759.

³⁹ 13 C.F.R. § 121.201, SIC Code 4812.

⁴⁰ The service is defined in section 22.99 of the Commission's rules, 47 C.F.R. § 22.99.

⁴¹ 13 C.F.R. § 121.201, SIC Code 4812.

⁴² See 47 C.F.R. § 20.9(a)(2) (noting that certain Industrial/Business Pool service may be treated as common carriage service).

1994 Annual Report on PLMRs⁴³ indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the proposed rules in this context could potentially impact every small business in the United States. We note, however, that because the vast majority of these licensees are end-users, not providers of telephony or broadband services, they would not be directly affected by the rules proposed in this Notice.

23. *Fixed Microwave Services.* Microwave services include common carrier,⁴⁴ private-operational fixed,⁴⁵ and broadcast auxiliary radio services.⁴⁶ At present, there are approximately 22,015 common carrier fixed licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies -- *i.e.*, an entity with no more than 1,500 persons.⁴⁷ We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

24. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.⁴⁸ At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small entities under the SBA's definition for radiotelephone communications.

⁴³ Federal Communications Commission, *60th Annual Report, Fiscal Year 1994*, at 116.

⁴⁴ 47 C.F.R. § 101 *et seq.* (formerly, Part 21 of the Commission's rules).

⁴⁵ Persons eligible under Parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. *See* 47 C.F.R. Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

⁴⁶ Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. *See* 47 C.F.R. § 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

⁴⁷ 13 C.F.R. § 121.201, SIC Code 4812.

⁴⁸ This service is governed by Subpart I of Part 22 of the Commission's Rules. *See* 47 C.F.R. §§ 22.1001 - 22.1037.

25. *Wireless Communications Services.* This service can be used for fixed, mobile, radio location and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of \$15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees that may be affected by the decisions and rules proposed in the Notice includes these eight entities.

26. *Satellite Services.* The Commission has not developed a definition of small entities applicable to satellite service licensees. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.⁴⁹ According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than \$9.999 million. The Census report does not provide more precise data.⁵⁰

27. In addition to the estimates provided above, we consider certain additional entities that may be affected by the data collection from broadband service providers. Because section 706 requires us to monitor the deployment of broadband regardless of technology or transmission media employed, we anticipate that some broadband service providers will not provide telephone service. Accordingly, we describe below other types of firms that may provide broadband services, including cable companies, MDS providers, and utilities, among others.

28. *Cable services or systems:* The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating \$11 million or less in revenue annually.⁵¹ This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census

⁴⁹ 13 C.F.R. § 121.201, SIC Code 4899.

⁵⁰ 1992 *Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC Code 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration.)

⁵¹ 13 C.F.R. § 121.201, SIC 4841.

Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than \$11 million in revenue.⁵²

29. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.⁵³ Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.⁵⁴ Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

30. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."⁵⁵ The Commission has determined that there are 66,000,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 660,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate.⁵⁶ Based on available data, we find that the number of cable operators serving 660,000 subscribers or less totals 1,450.⁵⁷ We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000,⁵⁸ and thus are

⁵² 1992 *Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4841 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

⁵³ 47 C.F.R. § 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of \$100 million or less. *Implementation of Sections of the 1992 Cable Act: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393 (1995), 60 FR 10534 (February 27, 1995).

⁵⁴ Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for December 30, 1995).

⁵⁵ 47 U.S.C. § 543(m)(2).

⁵⁶ 47 U.S.C. § 76.1403(b).

⁵⁷ Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

⁵⁸ We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.1403(b) of the Commission's rules. See 47 C.F.R. § 76.1403(d).

unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total of 66,000,000 subscribers, and we have based our fee revenue estimates on that figure.

31. *Multipoint Distribution Systems (MDS)*: The Commission has defined "small entity" for the auction of MDS as an entity that, together with its affiliates, has average gross annual revenues that are not more than \$40 million for the preceding three calendar years.⁵⁹ This definition of a small entity in the context of MDS auctions has been approved by the SBA.⁶⁰ The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas (BTAs). Of 67 winning bidders, 61 qualified as small entities.⁶¹

32. MDS is also heavily encumbered with licensees of stations authorized prior to the auction. The SBA has developed a definition of small entities for pay television services, which includes all such companies generating \$11 million or less in annual receipts.⁶² This definition includes multipoint distribution systems, and thus applies to MDS licensees and wireless cable operators which did not participate in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of \$11 million annually. Therefore, for purposes of this IRFA, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules, some which may be affected by the decisions and rules proposed in the Notice.

33. *Electric Services (SIC 4911)*: The SBA has developed a definition for small electric utility firms.⁶³ The Census Bureau reports that a total of 1379 electric utilities were in operation for at least one year at the end of 1992. According to SBA, a small electric utility is an entity whose gross revenues did not exceed five million dollars in 1992.⁶⁴ The Census

⁵⁹ 47 C.F.R. § 21.961(b)(1).

⁶⁰ See *Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act - Competitive Bidding*, MM Docket No. 94-31 and PP Docket No. 93-253, Report and Order, 10 FCC Rcd 9589 (1995).

⁶¹ One of these small entities, O'ahu Wireless Cable, Inc., was subsequently acquired by GTE Media Ventures, Inc., which did not qualify as a small entity for purposes of the MDS auction.

⁶² 13 C.F.R. § 121.201.

⁶³ Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987).

⁶⁴ 13 C.F.R. § 121.201, SIC 4911.

Bureau reports that 447 of the 1379 firms listed had total revenues below five million dollars.⁶⁵

34. *Electric and Other Services Combined (SIC 4931)*: The SBA has classified this entity as a utility whose business is less than 95% electric in combination with some other type of service.⁶⁶ The Census Bureau reports that a total of 135 such firms were in operation for at least one year at the end of 1992. The SBA's definition of a small electric and other services combined utility is a firm whose gross revenues did not exceed five million dollars in 1992.⁶⁷ The Census Bureau reported that 45 of the 135 firms listed had total revenues below five million dollars.⁶⁸

35. *Combination Utilities, Not Elsewhere Classified (SIC 4939)*: The SBA defines this utility as providing a combination of electric, gas, and other services which are not otherwise classified.⁶⁹ The Census Bureau reports that a total of 79 such utilities were in operation for at least one year at the end of 1992. According to SBA's definition, a small combination utility is a firm whose gross revenues did not exceed five million dollars in 1992.⁷⁰ The Census Bureau reported that 63 of the 79 firms listed had total revenues below five million dollars.⁷¹

IV. Description of Proposed Reporting, Recordkeeping, and Other Compliance Requirements:

36. The very focus of this proceeding is whether the Commission should require certain providers of communications services to report a limited amount of information about

⁶⁵ U.S. Department of Commerce, Bureau of the Census, 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D (Bureau of Census data under contract to the Office of Advocacy of the SBA).

⁶⁶ Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987).

⁶⁷ 13 C.F.R. § 121.201, SIC 4931.

⁶⁸ U.S. Department of Commerce, Bureau of the Census, 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D (Bureau of Census data under contract to the Office of Advocacy of the SBA).

⁶⁹ Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987).

⁷⁰ 13 C.F.R. § 121.201, SIC 4939.

⁷¹ U.S. Department of Commerce, Bureau of the Census, 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D (Bureau of Census data under contract to the Office of Advocacy of the SBA).

the development of local telephone competition and the deployment of broadband services. The Notice tentatively concludes that the Commission should undertake such a data collection and that local exchange carriers and providers of mobile telephony services that serve 50,000 or more subscribers, and any entity that provides at least 1,000 full broadband lines, should report specifically targeted information.⁷² The Notice sets out in detail, and seeks comment on, the Commission's tentative conclusions about the types of carriers that should report,⁷³ exempting smaller carriers,⁷⁴ frequency of reports,⁷⁵ data to be reported,⁷⁶ and methods (such as electronic filing) of reporting.⁷⁷ In particular, the Commission has tentatively concluded that given the comprehensive data to be obtained from large and medium-size carriers, it can exempt most small carriers from completing the survey without materially affecting its ability to assess the development of local competition and the deployment of broadband services.⁷⁸

V. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered:

37. The Commission makes specific provision to exempt most smaller carriers from the proposed requirement to report local telephone competition data. The Commission tentatively concludes that carriers with fewer than 50,000 nationwide local access lines (or mobile telephony subscribers, in the case of mobile telephony providers) should be exempted from the proposed reporting requirement.⁷⁹ Based on this exemption, the Commission estimates that fewer than 50 of the nation's largest service providers would remain subject to the proposed requirement. The Commission provides a detailed explanation for this proposed exemption and seeks comment on the 50,000 local access line threshold in the Notice.⁸⁰

⁷² See Notice Section III.A., Types of Entities that Must Report.

⁷³ See *id.*

⁷⁴ See Notice Section III.C., Exempting Smaller Entities.

⁷⁵ See Notice Section III.B., Frequency of Reports.

⁷⁶ See Notice Section III.E., Data to be Reported.

⁷⁷ See Notice Section III.G., Electronic Filing.

⁷⁸ See Notice Section III.C. Exempting Smaller Entities.

⁷⁹ See *id.*

⁸⁰ See *id.*

38. With respect to broadband service, and irrespective of the criteria for reporting local competition data, the Commission tentatively concludes that firms that provide full broadband services to at least 1,000 customers should report.⁸¹ The Commission tentatively concludes that this more comprehensive reporting requirement is necessary to monitor broadband developments by smaller carriers, for example, in rural areas. The Commission seeks comment on this proposed threshold and invites commenters to suggest alternative thresholds.⁸²

39. Among significant alternatives, the Commission considers whether it might rely on publicly available data or voluntary surveys, in lieu of a mandatory data collection program.⁸³ The Commission tentatively concludes other publicly available information sources present less than complete pictures of actual conditions and trends in developing local service markets and in the deployment of broadband. Further, the Commission considers the need for, and size of, its proposed exemptions for small entities.⁸⁴ The Commission tentatively concludes that the proposed thresholds will allow it exempt most small carriers from completing the survey without materially affecting its ability to assess the development of local competition and the deployment of broadband services.

VI. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rule:

40. None.

⁸¹ *See id.*

⁸² *See id.*

⁸³ *See Notice* Section III.

⁸⁴ *See Notice* Section III.C. Exempting Smaller Entities.

ATTACHMENT D - Commenters in CC Docket No. 91-141, CCB-IAD File No. 98-102**Comments:**

Allegiance Telecom, Inc.
Association for Local Telecommunications Services (ALTS)
Ameritech
AT&T Corp.
Bell Atlantic
BellSouth
General Services Administration (GSA)
GTE
GVNW Inc./Management (GVNW)
KMC Telecom, Inc.
MCI Telecommunications Corporation (MCI)
MediaOne Group, Inc. (MediaOne)
National Telephone Cooperative Association (NTCA)
Rural ILECs (Lexcom Telephone Company, United Telephone Association, Clear Lake
Independent Telephone Company, Ventura Telephone Company, and Webster-Calhoun
Cooperative Telephone Association)
SBC Communications Inc. (SBC)
Southern New England Telephone Company (SNET)
Telecommunications Resellers Association (TRA)
Teleport Communications Group Inc. (TCG)
United States Telephone Association (USTA)
U S WEST Communications, Inc. (U S WEST)

Reply Comments:

Allegiance Telecom, Inc.
Association for Local Telecommunications Services (ALTS)
Ameritech
AT&T Corp.
Bell Atlantic
BellSouth
General Services Administration (GSA)
KMC Telecom, Inc.
MCI Telecommunications Corporation (MCI)
National Telephone Cooperative Association (NTCA)
SBC Communications Inc. (SBC)
Telecommunications Resellers Association (TRA)
United States Telephone Association (USTA)
U S WEST Communications, Inc. (U S WEST)